

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

LDK SOLAR CO., LTD.,

Plaintiff(s),

v.

SILICON SOLAR, LLC, et al.,

Defendant(s).

CASE NO. 3:09-cv-05518-BHS

MINUTE ORDER REGARDING  
INITIAL DISCLOSURES, JOINT  
STATUS REPORT, AND EARLY  
SETTLEMENT

NOW, on August 27, 2009 , the Court directs the Clerk to enter  
the following Minute Order:

**I. INITIAL SCHEDULING DATES**

Pursuant to the Federal Rules of Civil Procedure, the Court sets the  
following dates for submission of the Joint Status Report and Discovery Plan:

Deadline for FRCP 26(f) Conference: 12/04/2009

Initial Disclosures Pursuant to FRCP 26(a)(1): 12/18/2009

Combined Joint Status Report and Discovery  
Plan as Required by FRCP 26(f) and Local  
Rule CR 16: 12/28/2009

**II. JOINT STATUS REPORT & DISCOVERY PLAN**

All counsel and any pro se parties are directed to confer and provide the

1 Court with a combined Joint Status Report and Discovery Plan (the "Report").

2 This conference shall be done by direct and personal communication, whether  
3 that be a face-to-face meeting or a telephonic conference. The Report will  
4 be used in setting a schedule for the prompt completion of the case. It  
5 must contain the following information by corresponding paragraph numbers:

- 6 1. A statement of the nature and complexity of the case.
- 7 2. The results of the FRCP 26(f) conference.
- 8 3. A proposed deadline for joining additional parties.
- 9 4. A statement of which ADR method (mediation, arbitration, or other)  
10 should be used. The alternatives are described in Local Rule CR 39.1 and in the  
11 ADR Reference Guide, which is available from the clerk's office. If the parties  
12 believe that there should be no ADR, the reasons for that belief should be stated.  
13
- 14 5. Unless all parties agree that there should be no ADR, a statement  
15 of when mediation or another ADR proceeding under Local Rule CR 39.1 should  
16 take place. In most cases, the ADR proceeding should be held within four months  
17 after the Report is filed. It may be resumed, if necessary, after the first session.  
18
- 19 6. A proposed discovery plan that indicates:
  - 20 (a) The date on which the FRCP 26(f) conference and FRCP 26(a)  
21 initial disclosures took place;
  - 22 (b) The subjects on which discovery may be needed and whether  
23 discovery should be conducted in phases or be limited to or focused upon  
24 particular issues;
  - 25 (c) What changes should be made in the limitations on discovery  
26 imposed under the Federal and Local Civil Rules, and what other limitations

1 should be imposed;

2 (d) A statement of how discovery will be managed so as to minimize  
3 expense (e.g., by forgoing or limiting depositions, exchanging documents  
4 informally, etc.); and

5 (e) Any other orders that should be entered by the Court under FRCP  
6 26(c) or under Local Rule CR 16(b) and (c).

7 7. The date by which the remainder of discovery can be completed.

8 8. Do the parties consent to assignment of this case to a full-time United  
9 States Magistrate Judge pursuant to 28 U.S.C. § 636(c) and Local MJR 13 to  
10 conduct all proceedings? Agreement in the Joint Status Report will constitute the  
11 parties' consent to referral to U.S. Magistrate Judge J. Richard Creatura.

12 *\*\*If counsel OR pro se parties do consent, each attorney/party MUST sign the document.*

13 9. Whether the case should be bifurcated by trying the liability issues  
14 before the damages issues, or bifurcated in any other way.

15 10. Whether the pretrial statements and pretrial order called for by Local  
16 Rules CR 16(e), (h), (i) and (1), and 16.1 should be dispensed with in whole or in  
17 part for the sake of economy. *(The court will make the final determination.)*

18 11. Any other suggestions for shortening or simplifying the case.

19 12. The date the case will be ready for trial, keeping in mind that this case  
20 should be resolved within twelve (12) months of filing of the complaint unless  
21 the case is unusually complex.

22 13. Whether the trial will be jury or non-jury.

23 14. The total number of trial days required.

24 15. The dates on which trial counsel may have complications to be  
25  
26

1 considered in setting a trial date.

2 16. Whether this case should be considered for designation for trial at the  
3 Federal Building in Vancouver, WA. Counsel should note that the courtroom  
4 at the Federal Building in Vancouver cannot accommodate a jury trial.

5 17. If on the due date of the Report, all Defendant(s) or Respondent(s)  
6 have not been served, counsel for Plaintiff shall advise the Court when service  
7 will be effected, why it was not made earlier, and shall provide a proposed  
8 schedule for the required FRCP 26(f) conference and FRCP 26(a) initial  
9 disclosures.  
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11 If the parties are unable to agree on any part of the Report, they may answer  
12 in separate paragraphs. SEPARATE REPORTS SHOULD NOT BE FILED.

13 The time for filing the Report may be extended only by court order. Any  
14 request for extension should be made by telephone to Trish Graham at  
15 (253) 882-3850.

16 If the parties wish to have a status conference with the Court at any time  
17 during the pendency of this action, they should notify the Courtroom Deputy,  
18 Gretchen Craft, by telephone at (253) 882-3825.  
19

### 20 **III. PLAINTIFF'S RESPONSIBILITY**

21 This order is issued at the outset of the case, and a copy is delivered by the  
22 Clerk to counsel for Plaintiff (or Plaintiff, if pro se) and any Defendants who have  
23 appeared. Plaintiff's counsel (or Plaintiff, if pro se) is directed to serve copies  
24 of this order on all parties who appear after this order is filed within ten (10) days  
25 of receipt of service of each appearance. Plaintiff's counsel (or Plaintiff, if pro se)  
26

1 will be responsible for starting the communications needed to comply with this  
2 order.

#### 3 **IV. MANDATORY ELECTRONIC FILING**

4 Counsel shall electronically file all documents with the Court. Pro se  
5 litigants may file either electronically or in paper form. Information and  
6 procedures for electronic filing can be found on the Western District of  
7 Washington's website at [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov). Assistance is available from  
8 the ECF help desk at (800) 323-9293 or (206) 370-8440. Counsel is  
9 STRONGLY ENCOURAGED to electronically file all documents with the  
10 Court for the following reasons: Electronically filed pleadings are instantly filed,  
11 and the Court has instant access to review and consider pleadings. Pleadings  
12 filed in paper form have to be labeled, scanned, and then docketed in the  
13 Clerk's Office. That can, and likely will, result in a delay of several days  
14 before the document is posted on the docket sheet, which will result in a  
15 delay before the Court will be able to review and consider the pleading.  
16

#### 17 **V. EARLY SETTLEMENT CONSIDERATION**

18 Early settlement of cases, before they become costly and time-consuming,  
19 is beneficial to all parties and to the Court. The Federal Bar Association  
20 Alternative Dispute Resolution Task Force Report for this district stated  
21 the following:  
22

23 [T]he major ADR related problem is not the percentage of civil  
24 cases that ultimately settle, since statistics demonstrate that  
25 approximately 95% of all cases are resolved without trial. However,  
26 the timing of settlement is a major concern. Frequently, under our  
existing ADR system, case resolution occurs far too late, after the  
parties have completed discovery and incurred substantial  
expenditure of fees and costs.

1 The judges of this district have adopted a resolution "approving the Task  
2 Force's recommendation that court-connected ADR services be provided as  
3 early, effectively, and economically as possible in every suitable case." The  
4 steps required by this order are meant to help achieve that goal while preserving  
5 the rights of all parties.

6 If settlement is achieved, counsel shall notify Gretchen Craft by telephone  
7 at (253) 882-3825.

8 **VI. SANCTIONS**

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10 A failure by any party to comply fully with this order may result in the  
11 imposition of sanctions.

12 The foregoing Minute Order was authorized by THE HONORABLE  
13 BENJAMIN H. SETTLE, UNITED STATES DISTRICT JUDGE.

14  
15 s/ Trish Graham  
16 Benjamin H Settle Trish Graham  
17 Judicial Assistant  
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